

Court of Appeals, Division One

Criminal

1 CA-CR 22-0098

STATE v. WHITE

Appellate Case Information

Case Filed: **2-Mar-2022**

Case Closed: **4-Apr-2024**

Decision

Dept/Composition

Department C

Hon. Paul J McMurdie

Hon. Maria Elena Cruz

Hon. Cynthia J Bailey

Side 1. STATE OF ARIZONA, Appellant

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellant

Robert A Walsh, Esq. (AZ Bar No. 16071)

Side 2. MEAGAN ONICE WHITE, Appellee

(Litigant Group) MEAGAN ONICE WHITE

- Meagan Onice White

PRO SE

CASE STATUS

Apr 4, 2024.....Case Closed

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CR2011-114695-001	Order Dated 01/19/2022 - Order Granting Expungement	Phemonia L Miller, Authoring Judge of Order		

CASE DECISION

26-Feb-2024 ORDER

* ORDERED: Exercising our discretion and accepting jurisdiction of the State's appeal as a special action. We need not determine whether the State has the right to appeal an expungement order involving a misdemeanor conviction under A.R.S. § 13-4032(4)

Filed: **26-Feb-2024**

Mandate:

Decision Disposition

***Jurisdiction Accepted
Relief Granted***

Paul McMurdie.....Author

15 PROCEEDING ENTRIES

- 2-Mar-2022 FILED: Notice of Appeal from Maricopa County Superior Court filed 02/15/22. Notification sent to Court Reporters dated 03/01/2022.
- 31-Mar-2022 FILED: e-Record on Appeal:
Instruments/Minute Entries: Combined
Disposition Report: 14 (SEALED)
Exhibits: None sent with e-Record
- 21-Jun-2022 FILED: Notice of Completion of Record
- 18-Jul-2022 FILED: State's Motion to Stay Appeal and Request to Appoint Appellee Counsel; Certificate of Service (Appellant)
- 26-Jul-2022 ORDERED: State's Motion to Stay Appeal and Request to Appoint Appellee Counsel (Appellant) = GRANTED. Staying this appeal until 09/26/2022. On 09/27/2022, the stay will be automatically lifted unless one of the parties files a motion to continue the stay or a motion to dismiss. FURTHER ORDERED: Directing appellant to file a copy of the decision in State v. Santillanes, 1 CA-CR 21-0389, marked for filing in this appeal, within 10 days of its entry. FURTHER ORDERED: Extending the time to file the opening brief to 10/27/2022. This deadline will be extended if the stay is continued. FURTHER ORDERED: Denying the motion to appoint counsel to represent appellee. This order is without prejudice to appellee filing an application in the superior court to proceed as an indigent on appeal pursuant to Arizona Rule of Criminal Procedure 31.5(a)(2) if appellee chooses to do so. This order expresses no opinion regarding whether appellee qualifies for appointed counsel. Benjamin A Armstrong ProTem Judge - Author
- 25-Oct-2022 FILED: State's Motion to Reinstate Stay of Appeal and Extend Deadline for Opening Brief; Certificate of Service (Appellant)

Court of Appeals, Division One**Criminal****1 CA-CR 22-0098****STATE v. WHITE****15 PROCEEDING ENTRIES**

7. 29-Dec-2022 ORDERED: State's Motion to Reinstate Stay of Appeal = GRANTED. Lifting the stay. FURTHER ORDERED: Extend Deadline for Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Thursday, 10-27-2022 to Tuesday, 02-07-2023. Benjamin A Armstrong ProTem Judge - Author
8. 1-Feb-2023 FILED: State's Motion to Reset Deadline for Opening Brief; Certificate of Service (Appellant)
9. 3-Feb-2023 ORDERED: State's Motion to Reset Deadline for Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 02-07-2023 to Thursday, 03-09-2023. Benjamin A Armstrong ProTem Judge - Author
10. 6-Mar-2023 FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service; Appendix A: State v. Wanna, 2023 WL 2318465 (Ariz. App. Mar. 2, 2023) (Appellant)
11. 9-May-2023 ORDERED: Answering Brief due by 05/18/2023. FURTHER ORDERED: If answering brief not filed, court will deem the appeal submitted for decision based on the opening brief and the record on appeal. Benjamin A Armstrong ProTem Judge - Author
12. 13-Jul-2023 ORDERED: Deeming the appeal submitted for decision based on the opening brief and the record on appeal. Benjamin A Armstrong ProTem Judge - Author
13. 26-Feb-2024 CLNDR: CONFERENCE, Department C, 4-3-24, COURTROOM 1.
14. 26-Feb-2024 ORDERED: Exercising our discretion and accepting jurisdiction of the State's appeal as a special action. We need not determine whether the State has the right to appeal an expungement order involving a misdemeanor conviction under A.R.S. § 13-4032(4) because we treat the appeal as a special action. FURTHER ORDERED: Granting the relief requested. We consider Appellee's failure to file an answering brief to be a concession of error. See State v. Sanders, 85 Ariz. 217, 219–20 (1959)(finding that an unexcused failure to file an answering brief constitutes a concession of error on a debatable issue). On the record presented, we find that the State's objection to the petition, along with police reports from the underlying offense, raised "genuine disputes of fact" and the superior court had insufficient evidence to issue findings without an evidentiary hearing. See A.R.S. § 36-2862(A)(1), (B)(2)(b). We further conclude that the court failed to make adequate findings of fact and conclusions of law in the expungement order. See A.R.S. § 36-2862(B)(4). We vacate the superior court's expungement order, and remand for the court to conduct an evidentiary hearing and issue an order with findings of fact and conclusions of law in compliance with A.R.S. § 36-2862(A)(1) and (B). FURTHER ORDERED: Vacating this case's conference currently set for 04/03/2024. Hon Paul J McMurdie - Author
15. 4-Apr-2024 FILED: Letter, 04/04/2024, Certified Copy of ORDER accepting jurisdiction, granting relief. No physical record to be returned to clerk, Maricopa County Superior Court.